ONTARIO
REVIEW BOARD

Office of the Honorable
Douglas H. Carruthers, Q.C.

June 30, 2003

The Honourable Tony Clement
Minister of Health and Long-Term Care
80 Grosvenor Street
10th Floor, Hepburn Block
Toronto, ON M7A 2C4

Dear Minister:

Re: Ontario Review Board Annual Report

On behalf of the Ontario Review Board, it is my pleasure to submit our 2002/2003 Annual Report pursuant to the MBS Agency Establishment and Accountability Directive.

Yours sincerely,

The Honourable Douglas H. Carruthers, Q.C.
Chair
Ontario Review Board

2008-03741/

ONTARIO REVIEW BOARD

Annual Report 2002/2003

(Fiscal Period - April 1, 2002 to March 31, 2003)

Ontario

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ONTARIO
REVIEW
BOARD

Office of the Honourable
Douglas H. Carruthers, Q.C.

Message from the Chair

The Ontario Review Board being established under Part XX.1 of the *Criminal Code* is an integral part of the criminal justice system. The Board exercises jurisdiction over individuals found by the courts to be either unfit to stand trial on account of a mental disorder or not criminally responsible on account of a mental disorder.

Each hearing conducted by the Board involves balancing two fundamental rights: the individual's right to liberty and the public's right to safety. The issues are complex and the decisions have a significant impact on the parties and the public. The Board has a high volume work load to meet each year.

As Chair of the Board, I commend the members and staff for their commitment and dedicated performance in the past year, and I look forward to their continued efforts as we address the many challenges that lie ahead.

The Honourable Douglas H. Carruthers, Q.C.

OVERVIEW OF THE BOARD

The Ontario Review Board is a unique tribunal that forms a critical component of the Canadian justice system. While it operates within the province of Ontario, the Ontario Review Board is not governed by provincial legislation, but by federal legislation.

Established under Part XX.1 of the *Criminal Code* of Canada, the role of the Ontario Review Board is clearly defined as follows:

> *A Review Board shall be established or designated for each province to make or review dispositions concerning any accused in respect of whom a verdict of not criminally responsible by reason of mental disorder or unfit to stand trial is rendered, and shall consist of not fewer than five members appointed by the Lieutenant Governor in council of the province..."(Part XX.1)*

While the role of each provincial Review Board is the same from province to province, the *Criminal Code* states that *a Review Board shall be treated as having been established under the laws of the province."* This statement recognizes the fact that the efficiency and effectiveness of each board in each province hinges on its connection to the province's psychiatric facilities and mental health delivery system.

The Board's procedures are directed solely by the *Criminal Code* of Canada and the *Public Inquiries Act*. Unlike adjudicative agencies that are created by provincial statute, the Ontario Review Board is not subject to the provisions of the *Statutory Powers and Procedures Act*. Appeals from decisions of the Ontario Review Board are directly to the Court of Appeal for Ontario.

JURISDICTION OF THE BOARD

The Ontario Review Board has jurisdiction over individuals, referred to as "accused," whom the Ontario courts have found to be unfit to stand trial due to mental disorder, or not criminally responsible for the commission of a crime due to a mental disorder.

Individuals found to be unfit to stand trail are under the jurisdiction of the Board until the Board finds them fit to stand trial. At that time, they are returned to the courts to be tried for their offences.

Functioning in the same manner as a court, the Board's responsibility is to take into consideration the "*need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused.*"

These complex decisions, made in each and every hearing conducted by the Ontario Review Board, carry significant ramifications as they affect the liberty of individuals and the safety of the public. The importance of the Board's decisions as they relate to these basic human rights is further demonstrated by that fact that the *Criminal Code* states that appeals made to the Board's decisions go directly to the Court of Appeal for Ontario.

Decisions of the Board are referred to as dispositions. Following the hearings, the Ontario Review Board renders one of three dispositions:

1) An absolute discharge for an accused person who is not criminally responsible, if the accused person is not a significant threat to the safety of the public;
2) A discharge subject to conditions; or
3) Detention in a hospital, subject to conditions.

For those detained in hospital, the Board issues a warrant for detention as set out in the *Criminal Code*.

Other than absolute discharges, dispositions of the Board are in effect for up to a year at which time a review hearing is held before the Board.

Parties to a hearing may include: the accused; the person in charge of the hospital in which the accused is detained or to which the accused reports; the Attorney General of the province where the disposition is to be made or from which the accused is transferred; and other persons who have a substantial interest in protecting the interests of the accused if the Review Board is of the opinion that it is just to designate such persons as parties.

ORGANIZATION OF THE BOARD

In carrying out its mandate as directed by the *Criminal Code,* the Board operates in a fashion similar to the courts.

The Ontario Review Board is made up of 124 members. In addition to the Chair and Legal Counsel, Board members include 22 Alternate Chairs, 30 Lawyers, 39 Psychiatrists, 9 Psychologists, and 24 Public Members. All are residents of Ontario. The members of the Board are appointed by Order-in-Council. A quorum of the Board consists of the Chairperson, a psychiatrist and "any other member."

As the *Criminal Code* states, the Chairperson must be a judge of the Federal Court or of a provincial superior, district or county court, or a person who has retired from or is entitled to be appointed to such a judicial office. "Chairperson" by definition includes not only the Chairperson as appointed by the provincial Cabinet, but also any other qualified member whom the Chairperson designates as an "Alternate Chairperson" to act on the Chairperson's behalf. In Ontario, the Chair appoints Alternate Chairs who are usually lawyers with 10 years or more experience, judges or retired judges.

The *Criminal Code* also specifies that each panel for a hearing must consist of three Board members, one of which must be a psychiatrist. Each panel must have a Chairperson or Alternate Chairperson. The Ontario Review Board sits in panels of five consisting of the Chair, two psychiatrists, or one psychiatrist and one psychologist, a lawyer and a public member.

An initial hearing, held after an individual has been found to be not criminally responsible or unfit to stand trial by the courts, is usually conducted in the facility where the accused is detained, such as a psychiatric hospital, court house or detention centre. The Board is required to hold an initial hearing within 45 - 90 days following the court's finding.

An annual hearing is required for those accused who are already under the Board's jurisdiction. Annual reviews are conducted in the provincial psychiatric facility where the accused is detained, penitentiary, or courtrooms.

Those who are declared to be unfit to stand trial are required to be represented by counsel. A large number of the accused who are not criminally responsible are also represented by counsel. At each hearing, evidence from the hospital where the accused is being detained is reviewed. The Board deliberates, then issues a written disposition. If that individual is further detained in hospital, the Board issues a new warrant.

Reasons for dispositions are issued as separate documents sometime later.

MEMBERS OF THE BOARD

Member	Date First Appointed	Date Current Term Expires
Chair		
The Honourable D. H. Carruthers, Q.C.	September 11, 1996	December 10, 2005
Alternate Chairs (& Legal Members)		
The Honourable Mr. Justice L.A. Beaulieu	July 4, 1997	July 3, 2003
The Honourable W. E. Bell	March 30, 1999	March 29, 2004
The Honourable J.D. Bernstein	October 13, 1999	October 12, 2005
Dr. H. Bloom	January 25, 1990	September 30, 2004
The Honourable J. W. Brooke Q.C.	December 8, 1999	December 7, 2002
Dr. B.T. Butler	March 1, 1983	February 29, 2004
Mr. S. R. Clark	October 21,1998	October 20, 2004
The Honourable W.R. Dupont Q.C.	December 2, 1999	December 1, 2005
Mr. M. Epstein	December 16, 1998	December 15, 2004
The Honourable Mr. Justice L. Feldman	January 13, 1994	February 27, 2003
Ms. M. Forestell	June 2, 1993	September 30, 2003
Mr. H. Garfield	December 2, 1998	December 1, 2004
Mr. S. Gilbert	July 3, 1996	February 28, 2003
The Honourable G. Y. Goulard Q.C.	June 30, 2000	June 29, 2006
The Honourable E. P. Hartt	November 29, 2000	November 28, 2003
The Honourable D. G. Humphrey Q.C.	March 16, 2000	March 15, 2006
Ms. S. Kert	April 29, 1999	April 28, 2005
Ms. S. G. Kerr	September 10, 1997	September 9, 2003
Mr. G. Kilpatrick	June 30, 2000	June 29, 2006
The Honourable Mr. Justice J.M. Labrosse	May 14, 1997	May 13, 2004
The Honourable Mr. Justice T. Lipson	March 17, 1986	February 28, 2003
The Honourable Mr. Justice H.R. Locke	October 21, 1998	October 20, 2004
Mr. F. McArdle	December 4, 1996	December 3, 2003
The Honourable D. F. O'Leary	November 21, 2001	November 20, 2004
Ms. M. S. Peeris	February 6, 2002	February 5, 2005
The Honourable H.D. Porter	September 5, 2000	September 4, 2003
The Honourable A.B. Rosenberg, Q.C.	December 15, 1999	December 14, 2005
The Honourable Mr. Justice R. D. Schneider	June 13, 2001	June 12, 2004
Mr. L. Steacy	March 5, 1997	March 4, 2003
The Honourable Mr. Justice D. Watt	December 4, 1996	December 3, 2002
Mr. J.A.S. Wilcox	December 2, 1998	December 1, 2004
The Honourable Mr. Justice T. G. Zuber	December 21, 2001	December 20, 2004
Legal Members		
Mr. K.G. Bernhardt	June 12, 1996	February 28, 2003
The Honourable Mr. Justice K.C. Binks Q.C.	May 10, 2000	May 9, 2003
Mr. R. J. Braudo	August 21, 2001	August 20, 2004
Mr. J.M. Brown	March 30, 1999	March 29, 2005
Mr. J. N. Buchanan	May 14, 1997	May 13, 2003
Mr. J.V. Bubba Q.C.	August 1, 2000	July 31, 2003
Mr. M. J. Bukovac	December 20, 2000	December 19, 2003
Mr. S. L. Cureatz, Q.C.	August 29, 2001	October 31, 2002
Mr. C. Eggert	September 10, 1997	September 9, 2003
Mr. M. Fair	March 30, 1999	March 29, 2005
Ms. L.A. Farrell	March 30, 1999	March 29, 2005
Mr. L. Feigman	March 11, 1996	February 28, 2004
Mr. N. Forest	April 4, 2001	April 3, 2004
Mr. H. Ginn	December 16, 1998	December 15, 2004
Mr. J. Goldberg	May 17, 1999	May 16, 2005

Member	Date First Appointed	Date Current Term Expires
Mr. K. Harris	December 16, 1998	December 15, 2004
Mr. S. Horton	April 29, 1999	April 28, 2005
Ms. S. Lavine	December 4, 2002	December 3, 2005
Mr. R. C. Lee Q.C.	April 29, 1999	April 28, 2005
Ms. K. K. Mundi	December 4, 2002	December 3, 2005
The Honourable Mr. Justice J.D. McCombs	May 14, 1997	May 13, 2003
Mr. I. McTavish	April 18, 2001	April 18, 2004
Mr. J. A. Neuberger	June 19, 2002	June 18, 2005
Ms. A. Spafford	July 4, 2001	July 3, 2004
Mr. R.C. Thompson	November 18, 1998	November 17, 2004
Mr. Peter J. Vice	May 29, 2002	May 28, 2005
Mr. K.G. Walker	April 29, 1999	April 28, 2005
Ms. J.K. Zytaruk	April 24, 1997	April 23, 2003
Psychiatrists		
Dr. J. Arboleda-Florez	November 18, 1998	November 17, 2004
Dr. J.D. Atcheson	June 1, 1997	May 8, 2002
Dr. R.B. Balmaceda	October 21, 1998	October 20, 2004
Dr. M.H. Ben-Aron	October 4, 2000	October 3, 2003
Dr. R.F. Billings	March 1, 1988	February 29, 2004
Dr. B. Bordoff	July 31, 2001	July 30, 2004
Dr. D. Bourget	May 28, 1997	May 27, 2006
Dr. J.M.W. Bradford	February 1, 1984	February 29, 2004
Dr. M.M. Brown	June 30, 2000	June 29, 2006
Dr. R. Buckingham	June 12, 1992	February 29, 2004
Dr. D.S. Byers	March 1, 1983	February 29, 2004
Dr. L.E. Cappe	August 24, 1998	August 23, 2004
Dr. G.A. Chaimowitz	December 4, 1996	December 3, 2004
Dr. R. D. Chandrasena	December 6, 2000	December 5, 2003
Dr. P. Cook	May 29, 2002	May 28, 2005
Dr. A. Côté	November 30, 1989	February 29, 2004
Dr. I. Côté	June 13, 2001	June 12, 2004
Dr. P. Darby	June 12, 1992	February 29, 2004
Dr. J. Ellis	October 21, 1998	October 20, 2004
Dr. J. P. Fedoroff	October 17, 2001	October 16, 2004
Dr. J.C. Ferencz	December 4, 1996	December 3, 2004
Dr. F.W. Furlong	October 4, 2000	October 3, 2003
Dr. D.A. Galbraith	November 3, 1994	November 2, 2003
Dr. G. D. Glancy	March 1, 1988	February 29, 2004
Dr. J. Gojer	October 21, 1998	October 20, 2004
Dr. G. Heasman	June 18, 1997	June 17, 2006
Dr. I. Hector	March 20, 2002	March 19, 2005
Dr. S.J. Hucker	December 11, 1996	December 10, 2004
Dr. A.D. Jones	October 6, 1999	October 5, 2005
Dr. P.F. Kelly	December 30, 1999	December 29, 2005
Dr. E. Kingstone	January 13, 1995	February 29, 2004
Dr. P.E. Klassen	October 13, 1999	October 12, 2005
Dr. W.J. Komer	February 5, 1997	February 4, 2006
Dr. R. Kunjukrishnan	December 4, 1996	December 3, 2004
Dr. P.G. Lynes	June 12, 1992	May 9, 2002
Dr. S. Malcolmson	December 3, 1997	March 4, 2004
Dr. P. Max	March 1, 1988	February 29, 2004
Dr. A. McDonald	August 24, 1998	August 23, 2004
Dr. G.G.J. Melanson	July 4, 2001	July 3, 2004
Dr. P. D. Norris	October 9, 2002	October 8, 2005
Dr. E. Pohlman	March 1, 1988	February 29, 2004
Dr. M.V.A. Prakash	August 24, 1998	August 23, 2004
Dr. P. J. Prendergast	June 12, 1992	February 29, 2004
Dr. Q. Rae-Grant	April 20, 1994	April 19, 2005

Member	Date First Appointed	Date Current Term Expires
Dr. R.B. Sheppard	December 11, 1996	December 10, 2004
Dr. G.S. Sidhu	December 7, 1994	February 28, 2005
Dr. W.R.P. Surphlis	March 30, 1999	March 29, 2005
Dr. S. Swaminath	December 8, 1993	February 28, 2005
Psychologists		
Dr. R. Cormier	December 2, 1998	December 1, 2004
Dr. P. Firestone	October 9, 2002	October 8, 2005
Dr. G. B. Jones	March 31, 2000	March 30, 2006
Dr. L.O. Lightfoot	November 20, 1992	November 2, 2003
Dr. L.C. Litman	February 25, 1998	February 24, 2004
Dr. G. Nexhipi	March 20, 2002	March 19, 2005
Dr. D. Nussbaum	December 3, 1997	December 2, 2003
Dr. N. Pollock	November 3, 1994	November 2, 2003
Dr. G.M. Turrall	February 24, 1993	February 29, 2004
Dr. C.D. Webster	December 13, 2000	December 12, 2003
Dr. P.N. Wright	August 24, 1998	August 23, 2004
Public Members		
Dr. F. Abbott	April 29, 1999	April 28, 2005
Mr. R. G. Cantin	December 18, 2002	December 17, 2005
Mr. J.R.J. Cottrell	April 19, 2000	May 17, 2001
Mr. M. Decaen	October 22, 1997	October 21, 2003
Ms. M. Dow	February 6, 2002	February 5, 2005
Ms. L. D. Eccles	February 16, 2000	February 15, 2006
Ms. H. Elie	December 22, 1999	December 21, 2004
Mr. W. Gilbert	September 10, 1997	December 12, 2003
Ms. B. Hodgson	October 4, 2000	October 3, 2003
Mr. T. S. Kelsey	December 20, 2000	December 19, 2003
Mr. M.P. Keogh	May 13, 1998	May 12, 2004
Mrs. S. Lee	October 18, 2000	October 17, 2003
Mr. J.W. Lidstone	March 1, 1988	February 28, 2003
Ms. G. Lockyer	May 17, 1999	May 16, 2005
Dr. L.L.Q. Lum	November 19, 1997	November 18, 2003
Ms. A. MacDonald	September 5, 2000	September 4, 2003
Mr. A. Mete	March 20, 1997	March 19, 2003
Mr. W. M. Money	October 21, 1998	October 20, 2004
Ms. D. Ormston	May 17, 1999	May 16, 2005
Mr. A. Péladeau	November 18, 1998	November 17, 2004
Ms. L. Ritchie	March 30, 1999	March 29, 2005
Ms. J.J. Roy	December 16, 1998	December 15, 2004
Ms. B. C. Snowdon	October 17, 2001	October 16, 2004
Mr. D.D. Tennant	October 1, 1997	September 30, 2003
Ms. S. Wetmore	December 22, 1999	December 21, 2005
Mr. D.R. Whall	November 18, 1998	November 17, 2004
Mr. P.E.O. Yorke	May 17, 1999	May 16, 2005

PERFORMANCE MEASURES AND TARGETS

The core business of the Ontario Review Board is to conduct hearings and issue dispositions in accordance with the *Criminal Code* within the mandatory timeframes - 45 or 90 days after the verdict is rendered as the case may be. After making a disposition, the Review Board must review that disposition within 12 months and every 12 months thereafter for as long as the disposition remains in force.

In addition to initial hearings and annual hearings, the *Criminal Code* provides for a discretionary early review of a disposition at the request of any party other than the hospital. Early review is mandatory if requested by the hospital or if an individual's liberties are restricted for more than seven days.

These are the events that dictate the Board's workload. They can fluctuate dramatically from month to month. The Board's performance is measured by its ability to meet a demanding schedule and deliver quality service.

Occasionally, there are circumstances under which the Board is unable to meet deadlines for hearings, but this represents a small percentage of overall scheduled hearings. Reasons for a cancelled hearing include:

- Adjournment at the request of the party;
- Failure of the Court to notify the Board of new accused; or
- Clerical error.

The Ontario Review Board is in the process of developing performance standards with respect to time frames for dispositions and reasons for dispositions to be issued. Currently, the disposition is generally issued anywhere from two days to two weeks after a hearing or week of hearings. Reasons for dispositions follow. A high priority of the Board is to issue a disposition within five to 10 days after the hearing.

The Board is also pursuing a number of initiatives to facilitate the process, such as:

- Educating Board members;
- Working with other provincial Review Boards to make recommendations to the federal government concerning proposed changes to the *Criminal Code* of Canada;
- Improving administrative efficiency through technology - the Board has recently acquired an automated case management system and is looking at options for better integration and sharing of services with the Consent and Capacity Board located on the same floor as the Ontario Review Board.

The Board will continue to pursue methods of increasing efficiency of operations and processes, and delivering a high quality of service.

Like others in the Agency Sector, the Board is looking at Performance Management for Appointees to Regulatory and Adjudicative Agencies as set out in the November 2000 document. Further details are required from Management Board of Cabinet before the Board can look at applying the process internally.

In addition, the Board is finalizing its Complaint Process following the Management Board of Cabinet's recommendation that the Ontario Review Board have a guide to respond to public complaint.

REVIEW BOARD PERSONNEL

Up to March 31, 2003

Name	Position
The Hon. Douglas H. Carruthers,	Chair
Janet Leiper	Legal Counsel
Jim Curren	Chief Operating Officer and Registrar
Sheila McDermott	Deputy Registrar
Victoria Bedrossian	Board Order Administrator
Roslyn Gunton	Board Order Administrator
Radica Roopsingh	Scheduling Coordinator
Helen Schneider	Scheduler
Jacqueline Gjorgijevski	Scheduler
Keegan Gruber	Distribution Coordinator
Abuzar Ali	Distribution and Records Clerk
Maureen Gauder	Finance and Administrative Coordinator
Tricia Bonomo	Administrative and Financial Assistant
Olga Lenskaia	Bilingual Receptionist/Secretary
Sewranie Narine	Secretary to Chair/Counsel
John Smith	Systems Officer

FINANCIAL INFORMATION

2002/2003 Expenditures by Standard Account – Audited Figures

DESCRIPTION	2001-02 ALLOCATION	EXPENDITURES	SURPLUS / DEFICIT**
Salaries and Wages	749,400	807,776	58,376
Benefits	131,300	159,543	28,243
Transportation & Communications	363,300	525,186	161,886
Services	2,410,500	2,610,187	199,687
Supplies & Equipment	73,900	111,178	37,278
Sub-total ODOE	2,847,700	3,246,551	398,851
Total	**3,728,400**	**4,213,870**	**485,470**

FINANCIAL INFORMATION (CONT'D)

2002/2003 Expenditures by Function

FUNCTION	EXPENDITURES
Salaries & Wages	807,776
Employee Benefits	159,543
Administration & Hearing Support	488,112
Annual Hearing	1,653,512
Initial/Early Review Hearings	927,668
Education	177,259
Total	**4,213,870**